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**VIA MESSENGER**

Mr. David Nall  
Acting Chief, Tariff Division  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

Re: **Written *Ex Parte* Filing By MFS Communications Company, Inc.  
in CC Docket No. 93-162**

Dear Mr. Nall:

MFS Communications Company, Inc. ("MFS") by its undersigned counsel and in accordance with Section 1.1206(a)(1) of the Commission's Rules, hereby submits this written *ex parte* filing in CC Docket 93-162. This letter is sent following a discussion held on Monday, June 6, 1994, between Amy Glatter, Staff Attorney in the Tariff Division, and Cindy Schonhaut, MFS' Vice President of Government Affairs, and myself. During this discussion, Ms. Glatter requested that MFS clarify its position concerning the recovery of collocation-related central office preparation charges by local exchange carriers ("LECs"). This filing responds to that request. As required by the Commission's Rules, an original and two copies of this submission have been filed with the Secretary.

**I. Background**

All of the rates, terms and conditions contained in the LECs' expanded interconnection tariffs are currently pending investigation by the Commission in CC Docket No. 93-162. This filing focuses on a single rate element -- the charges designed to recover costs associated with central office space preparation. The LECs have employed several different methodologies for recovering these costs. Several of the LECs have tariffed averaged rates based on the total amount of estimated preparation costs divided by the anticipated number of collocators, with the resulting amount to be billed as a nonrecurring charge to each collocator.

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Other LECs propose billing the entire cost of central office preparation to the first party to achieve collocation. Under this second scheme, the LECs provide for prorata refunds if additional interconnectors achieve collocation, but establish conditions or limitations on such refunds. For example, under the Pacific Bell collocation tariff, refunds would be available only to the first four collocating parties, and only if they achieved collocation within a 12-month period.<sup>1/</sup> Similarly, under the GTE tariff, refunds are limited to a maximum of two additional collocators per central office, provided they all achieve collocation within a 12-month period.<sup>2/</sup>

The third type of recovery plan also imposes the full amount of preparation charges upon the first collocator, but provides for prorata credits to all collocators without restriction. This latter provision establishes refunds regardless of the number of parties that obtain collocation, or when collocation is achieved.<sup>3/</sup>

As MFS discusses below, an averaged rate structure is the most fair and reasonable basis for establishing tariffed rates for the recovery of central office space preparation. If the Commission chooses not to require the universal adoption of such a rate scheme, a system that provides for prorata reimbursement without restriction would be an acceptable alternative.

## **II. Recovery of Central Office Preparation Charges Should Be Made on an Averaged Basis**

MFS believes that the LECs' rates for non-recurring collocation charges should be established on an averaged basis, using the number of collocators reasonably expected to achieve collocation at the LECs' central offices. The LECs are fully capable of providing the anticipated number of collocators at their central offices for two reasons. First, for other new services, the LECs routinely establish charges based on estimated demand. These demand figures typically are obtained from discussions with potential customers for the new service. In the case of collocation, the universe of likely collocators is well defined -- competitive access providers and interexchange carriers are the only parties that have expressed an immediate interest in collocation. Second, most LECs have received actual notice from interconnectors requesting

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<sup>1/</sup> Pacific Bell, Tariff F.C.C. No. 128, § 16.3.4.

<sup>2/</sup> GTE Tariff F.C.C. No. 1, § 17.6.1(H).

<sup>3/</sup> Bell Atlantic, Tariff F.C.C. No. 1, § 19.6(A).

specific central offices to be included in the LECs' collocation tariffs. These expressions of interest from potential collocators provide a sound basis for calculating averaged rates.

In addition, MFS' actual experience over the last year with intra- and interstate collocation has shown that the central offices with the highest traffic density have attracted between two and four interconnectors per central office. As a result, estimated preparation charges for these central offices may reasonably be calculated using an assumption of two-to-four collocators per office.

In certain instances, specific information provided by the LECs should be factored in to further refine the averaged rate. For example, several LECs have used estimated demand figures in establishing charges for other expanded interconnection rate elements.<sup>4/</sup> In such cases, the Commission should require the LEC to reduce its central office preparation nonrecurring charges to reflect a similar level of demand.

The foregoing information is sufficient to enable the LECs to make a reasonable assumption as to the number of central offices required in the near future and the potential amount of collocation preparation costs that may be incurred. Determination of an averaged rate clearly is possible.

Establishment of a uniform rate would prevent assignment of the full burden of preparation costs to the first collocator, as is currently required by some LEC tariffs. No public policy or economic justification exists to hold the first collocator liable for all common construction charges. MFS believes that such a rate scheme, even when coupled with a prorata refund mechanism, is inequitable and constitutes a significant barrier to competitive entry. Moreover, not only is the cost of collocation unreasonably inflated for the first party seeking collocation but, as noted below, the refund mechanism itself may be subject to abuse where a time limitation on refunds is imposed. For all these reasons, MFS urges the Commission to require all LECs to establish averaged rates for central office preparation based on the total estimated number of collocators.

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<sup>4/</sup> For example, Pacific Bell established averaged recurring charges for entrance facility cabling, and averaged nonrecurring charges for power, using an estimate of four collocators per central office. See MFS Communications Company, Inc. Comments Opposing Direct Cases, filed in CC Docket No. 93-162 on September 20, 1993, at page 20 (citing Pacific Bell Direct Case at pages 4 and 14).

## **II. Eliminate Restrictions on Refunds to Collocators**

If the Commission determines that LECs may impose the full amount of collocation-related central office preparation charges on the first collocator, MFS requests that the Commission, at a minimum, eliminate any restrictions or conditions bearing on the provision of prorata refunds to the first collocator. Such limitations impose an inequitable burden on the first party to achieve collocation and thwart the procompetitive policies endorsed by the Commission in establishing expanded interconnection.

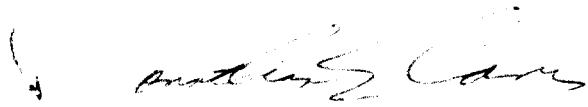
Time limitations on refunds, such as the 12-month restriction imposed by Pacific Bell and GTE, will result in a windfall to subsequent collocators whenever a party achieves collocation more than one year after the first collocator becomes established. Indeed, such restrictions create an incentive for parties to game the system in order to disadvantage the initial collocator. For example, a subsequent collocator could simply wait until the time period for refunds has lapsed before ordering collocation, thereby avoiding payment of any portion of the common preparation charges. Conversely, a time restriction is also subject to LEC manipulation because LECs have ultimate control over the time a collocation arrangement takes to be implemented, and can easily delay the timing of subsequent collocation arrangements to ensure that subsequent collocators do not achieve collocation within the established time period.

Because refund restrictions and conditions impose an unreasonable burden on initial collocators, and thus are inconsistent with promoting competition in the interstate access market, the Commission should reject any limitations on refunds to collocators.

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Provided that such prorata refunds are not restricted, MFS would find billing of all central office preparation charges to the first collocator an adequate and reasonable method of recovery.<sup>5/</sup>

Respectfully submitted,



Jonathan E. Canis

cc: William F. Caton  
Amy Glatter  
Andrew D. Lipman  
Cindy Z. Schonhaut

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<sup>5/</sup> At least one LEC recently has revised its collocation tariff to eliminate all such restrictions on prorata refunds. Bell Atlantic, Tariff F.C.C. No. 1, Transmittal No. 613, issued November 18, 1993. This action demonstrates that a LEC may establish a prorated refund system that is fair to collocators without imposing any undue administrative burden on the LEC.